



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

RECENT CASES

ARMY AND NAVY — WRONGFUL ENLISTMENT OF MINOR — RIGHT OF PARENTS TO DISCHARGE. — A minor by fraudulently misrepresenting his age succeeded in enlisting in the National Guard of a state after it had been drawn into the government service. His parents requested his discharge, which was refused. They thereupon obtained a writ of *habeas corpus* to be served upon the military authorities, but before service of the writ the minor had been arrested to await trial for fraudulent enlistment. There was a rehearing on the writ. *Held*, that the prisoner be released. *Ex parte Avery*, 235 Fed. 248.

At common law a minor's contract of enlistment is not voidable either at his own or his parents' instance. *Commonwealth v. Gamble*, 11 Serg. & R. (Pa.) 93; *United States v. Blakeney*, 3 Gratt. (Va.) 405. Nor may a parent obtain the discharge of a minor where a statute fixes the military age at eighteen, but makes no mention of a necessity of the parent's consent. *Acker v. Bell*, 62 Fla. 108, 57 So. 356. The federal statute, however, requires the consent of the parent or guardian. See U. S. REV. STAT., §§ 1116, 1117. Under this statute the minor himself may not avoid his contract. *In re Morrissey*, 137 U. S. 157. But see *In re Baker*, 23 Fed. 30; *Commonwealth v. Cushing*, 11 Mass. 67. But while all authorities agree that the parent may avoid the contract, there has been a great diversity of opinion as to the parents' right to do so before the minor has paid the penalty of his crime. *Ex parte Lisk*, 145 Fed. 860; *Ex parte Bakley*, 148 Fed. 56, 152 Fed. 1022; *Dillingham v. Booker*, 163 Fed. 606; *Ex parte Lewkowitz*, 163 Fed. 646. The court in the principal case reached its decision by finding that the jurisdiction of the civil court had attached before that of the court martial. However, the jurisdiction of the court martial is not distinct from that of the military authorities. But the question is not one of different courts of equal jurisdiction attempting to dispose of the same matter; the sole concern on a writ of *habeas corpus*, is whether the detention is lawful. See *United States v. Williford*, 220 Fed. 291. As the enlistment was good, though voidable, it follows that immediately upon the crime the military authorities had a legal right to hold the minor for court martial. *Ex parte Lewkowitz, supra*; *United States v. Williford, supra*. The writ must therefore fail upon such detention.

BANKRUPTCY — ADMINISTRATION — RIGHT OF STOCKHOLDERS OF BANKRUPT BUILDING AND LOAN ASSOCIATION TO VOTE FOR TRUSTEE. — A building and loan association became bankrupt. It owned \$750,000 worth of assets, and was subject to stockholders' claims to that amount, but it owed only \$12,000 to outside creditors. The stockholders were allowed to vote for the trustee in bankruptcy. *Held*, that this is proper. *Merchants National Bank v. Continental Building & Loan Association*, 232 Fed. 828 (Circ. Ct. App., 9th Circ.).

Only creditors having a provable claim are entitled to vote for a trustee in bankruptcy. U. S. COMP. STAT., §§ 9585 (9), 9628. A stockholder of an ordinary corporation is clearly not, as such, a creditor. A building and loan association is formed for the purpose of accumulating a fund from the stock subscriptions of its members in order to make loans to them. The stockholders, like those of any other corporation, are liable to contribute to losses to the amount of their shares. *McGrath v. Hamilton Savings & Loan Association*, 44 Pa. St. 383. But they have the privilege of withdrawing, and then become creditors of the association, though their claims are deferred to those of outside creditors. *Christian's Appeal*, 102 Pa. St. 184. The association is expected ultimately to pay back all its stock subscriptions. Hence, as is forcibly shown by the principal case, its liability to outsiders is never more than a small fraction of that

to its stockholders. It follows that in the great majority of cases it cannot be shown to be insolvent by considering simply the claims of outside creditors. Accordingly, the claims of members may be shown to prove the propriety of remedies as for insolvency. See *Globe Building & Loan Co. v. Wood*, 22 Ky. L. Rep. 1500, 1502, 60 S. W. 858, 860. ENDLICH, BUILDING ASSOCIATIONS, 2 ed., § 511. In like manner, if these associations are to be put through bankruptcy, the claims of the members must be permitted to be shown. But only debts provable in bankruptcy are included in the debts which make a person insolvent and allow a petition in bankruptcy against him. U. S. COMP. STAT., §§ 9585 (11) (12), 9587. So if these associations are to go through bankruptcy at all, their shareholders must be holders of provable claims and so allowed to vote for the trustee.

CARRIERS — PASSENGERS — WHO ARE PASSENGERS — CHILD RIDING FREE AT INVITATION OF MOTORMAN. — The plaintiff, a boy ten years of age, in response to the beckoning of a motorman, boarded the defendant's street car without payment of fare. Owing to the negligence of the motorman in suddenly stopping the car, the plaintiff was thrown off and injured. He now sues the carrier on the theory of breach of duty toward a passenger. Held, that the plaintiff may recover. *Hayes v. Sampsell*, 113 N. E. 611 (Ill.).

It has long been held that the relation of carrier and passenger can arise otherwise than in contract. *Marshall v. The York, etc. Ry.*, 11 C. B. 655; *Austin v. Great Western Ry.*, L. R. 2 Q. B. 442. However, the relation is perfected only by an acceptance of the person as a passenger by the carrier. Where the duty of accepting is delegated to an agent, it obviously includes acceptance only on payment of fare. Therefore, it is without the scope of the agent's authority to raise the relation when such payment is not intended. See J. H. Beale, "Carriers and Passengers," 19 HARV. L. REV. 250, 265. Thus adults are generally classed as trespassers when riding with the conductor's permission without payment of fare. *Purple v. Union Pacific Ry.*, 114 Fed. 123; *Robertson v. New York & Erie R. Co.*, 22 Barb. (N. Y.) 91. Contra, *Chattanooga Rapid Transit Co. v. Venable*, 105 Tenn. 460, 58 S. W. 861. It must be equally apparent that it is without the scope of the agent's authority to raise the relation with respect to children under similar conditions, since the scope of the authority cannot vary in inverse ratio with the age of the person applying. See *Chicago, etc. Ry. v. Casey*, 9 Bradw. (Ill.) 632, 643. However, a number of courts have made an exception to the rule and allowed recovery for a child injured as in the principal case. Cf. *Wilton v. Middlesex Ry. Co.*, 107 Mass. 108, with *Robertson v. Boston, etc. Ry. Co.*, 190 Mass. 108, 76 N. E. 513. Cf. *Muelhausen v. St. Louis Ry. Co.*, 91 Mo. 332, 2 S. W. 315, and *Whitehead v. St. Louis, etc. Ry. Co.*, 99 Mo. 263, 11 S. W. 751, with *Snider v. St. Joseph Ry. Co.*, 60 Mo. 413. While it seems difficult to say that the true carrier-passenger relation arises in these cases, the courts apparently have in mind an affirmative duty either to exclude children or else admit them as passengers. See *New Jersey Traction Co. v. Danbeck*, 57 N. J. L. 463, 31 Atl. 1038; *Pittsburg, etc. Ry. v. Caldwell*, 74 Pa. St. 421.

CONTRACTS — CONTRACT OF INDEMNITY — WHETHER ASSIGNABLE. — A married woman owned stock in the plaintiff company, and was under heavy liability for calls thereon. In consideration of her executing a transfer of this stock to an infant, the defendant agreed to indemnify her against any liability for calls. The company went into liquidation, and the present holder of the stock being an infant, the woman was placed on the list of contributories. Judgment was recovered against her for calls, but as she had no separate estate, the judgment was fruitless. The liquidator then took an assignment from her of the contract of indemnity and sued defendant to recover the amount of the